



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
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STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

September 24, 2009
Honolulu, Hawaii

Delegation of Authority to the Chairperson to
Appoint a Hearings Officer for the Hearing on Objections to
Surface Water Use Permit Applications for Existing Uses in the
Na Wai Eha Surface Water Management Areas, Maui

SUMMARY OF REQUEST:

Delegation of authority to the Chairperson to appoint a Hearings Officer for the Hearing on Objections to Surface Water Use Permit Applications (Applications) for existing uses in the Na Wai Eha Surface Water Management Areas, Maui.

BACKGROUND:

On March 13, 2008, the Commission designated the surface water hydrologic units of Na Wai Eha (Waihee, Waiehu, Iao and Waikapu) in the Wailuku district of Maui as Surface Water Management Areas (SWMA).

Existing users of surface water were required to apply for water use permits to continue existing uses of surface water within a one-year period from the effective date of designation, April 30, 2008 (the date of the Public Notice of the SWMA designation), and no later than April 30, 2009.

The Commission received 125 Applications for existing surface water uses as of April 30, 2009. The State Water Code requires that Applications be published in a newspaper at least once a week for two consecutive weeks and also requires a monthly bulletin of all pending Applications. The Code also provides for objections to Applications and responses to objections. Objections may be filed by a person who has some property interest in any land within the hydrologic unit from which the water is drawn, or who will be directly and immediately affected by the water use claimed in the application. If an objection to an application is made by any person who has standing to file an objection, the Commission must hold a hearing on the objection. Objections have been filed for all applications by parties who have standing to file objections. Therefore, a Hearing on Objections for all the Applications must be held.

ANALYSIS/ISSUES:

The Commission may conduct the hearing or has the authority under Hawaii Revised Statutes, sections 174C-11 and 92-16(3) and Hawaii Administrative Rules section 13-167-56(d) to appoint a hearings officer or master to hear and reach a preliminary decision on any matter concerning the implementation or administration of the State Water Code. In the past, the Commission has delegated authority to the Chairperson to appoint commissioners, or staff, to be hearings officer to be efficient and expeditious in conducting various proceedings.

In this matter, the appointed hearings officer shall hear all comments and objections to Applications and responses to the comments and objections, and compile and summarize the objections and responses. The Hearing on Objections is proposed to be held on Maui at a date, time, and place to be announced.

RECOMMENDATION:

That the Commission delegate authority to the Chairperson to appoint a Hearings Officer for the Hearing on Objections to Surface Water Use Permit Applications for existing uses in Na Wai Eha Surface Water Management Areas, Maui.

The Hearing on Objections will be held on Maui at a date, time, and place to be announced.

Respectfully submitted,


KEN C. KAWAHARA, P.E.
Deputy Director

APPROVED FOR SUBMITTAL:


LAURA H. THIELEN
Chairperson